

REMARKS

In a companion application, the drawings were objected to with the Examiner requiring corrected drawings in reply to the office action. A replacement sheet has been presented in that companion application in which all of Fig. 3 is redrawn and elements 24 and 25 of Fig. 1 are redrawn along with reference numeral 23. A corresponding replacement sheet is enclosed. Formal drawings will be presented upon the indication of an allowable claim.

Claim 9 has been rejected under 35 USC 101 as claiming the same invention as that of claim 9 of Applicant's co-pending application No. 10/639,536. Claim 9 has been canceled in the co-pending application and is amended herein.

Claims 1-3 and 8-9 have been rejected on a nonstatutory double patenting basis also with reference to Applicant's noted co-pending application. If, in conclusion of the prosecution, both applications are maintained, a terminal disclaimer will be filed.

Claims 9-11 have been rejected under 35 USC 102 as being anticipated by Gibbons while claims 9 and 10 have been additionally rejected under 35 USC 102 as anticipated by either Douglas or Rose et al. Claim 9 has been amended in a manner which is believed to obviate these rejections.

Claims 1-5 and 8 have been rejected under 35 USC 103(a) as being unpatentable over Gibbons in view of Anderson while claims 1-

4 and 8 have been rejected on the same basis as being unpatentable over Douglas et al. in view of Anderson and additionally rejected over Rose et al. in view of Anderson. In each of these rejections, the Examiner notes that claim limitations "for dough like," "for viscous food dough," and "dough-like" do not further limit the apparatus because claiming a material shape does not structurally define an apparatus.

Applicant's invention allows the utilization of moyno-type pumps for dough-like materials, and, particularly, for food doughs. As described in the specification, there are many advantages to the use of a moyno-type pump for extruding and/or merely pumping food doughs. However, to the inventor's knowledge, moyno-type pumps have not been used in such applications in spite of their many advantages because moyno-type pumps have heretofore been utilized only with materials which flow into their inlet or under conditions in which the material is forced into the inlet by prior processing. The Gibbons reference relied upon by the Examiner is a case in point where, in column 4, line 11, it is stated that speckled dentifrice "drops" through the outlet 25 (into the inlet of the moyno-type pump). Similarly, the Douglas pump 4 has material flowing into its inlet.

In the Rose disclosure, the metering pumps to which the Examiner refers do not receive material from a hopper but, instead, receive material after it has been pumped by a stuffing pump 30,

through a dough developer 38 after which it is divided to enter (under pressure) the metering pumps. Thus, prior to entering the metering pumps (identified by the Examiner as analogous to Applicant's moyno pump), there are various operations performed on the material under pressure. The pressure is required for those preceding operations (the dough developer 38, for example). As such, the Rose disclosure is not relevant to the withdrawal of a material from a hopper and a pumping/extruding of that material through the use of a moyno-type pump.

In the rejections based on Gibbons and Douglas, the Examiner relies upon disclosures of moyno-type pumps fed from a hopper and concludes that it would be obvious to utilize the Anderson roll feeder in combination with that pump. However, neither Gibbons or Douglas have a use for such a roll feeder. Thus, there is no suggestion for the use of a roll feeder in either. From another perspective, if the Gibbons or Douglas devices were to be used for a material for which Applicant's combination is intended (dough), they would simply not work. Thus, while the Examiner chooses to ignore the materials being acted upon, that material does establish a context for a new combination of elements -- a moyno-type pump and roll feeder. Whether the "dough" is considered as an element of the claim or not, the combination of elements is nonetheless unique in that the prior art of record (Gibbons and Douglas) do not require a feeder at the inlet of their moyno-type pumps and have no

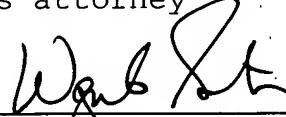
utility with materials that do not flow into their inlet while Rose employs a moyno pump (by suggestion only) at the end of a process stream which does not satisfy the conditions of Applicant's claims. To replace Rose's processing devices with a roll feeder destroys the very purpose of the Rose device.

In light of the above, it is believed that the remaining claims provide a distinct combination of elements which is neither shown nor suggested by the applied combinations of references. Reconsideration by the rejections and the issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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By his attorney



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